

ORIGINAL

CV 19 - 7202

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

MATSUMOTO, J.

David Wyche

*(Write the full name of each plaintiff who is filing
this complaint. If the names of all the plaintiffs
cannot fit in the space above, please write "see
attached" in the space and attach an additional
page with the full list of names.)*

-against-

KM Systems Inc. (Kms wireless)
CRon castle (Cron Castle Communications)

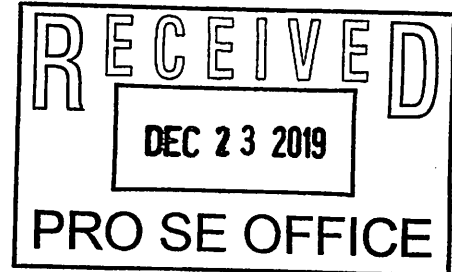
*(Write the full name of each defendant who is
being sued. If the names of all the defendants
cannot fit in the space above, please write "see
attached" in the space and attach an additional
page with the full list of names.)*

**Complaint for Employment
Discrimination**

BULSARA, M.J.

Case No. _____
(to be filled in by the Clerk's Office)

Jury Trial: ☒ Yes ☐ No
(check one)



I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	<u>David Wyrche</u>
Street Address	<u>1 Tame Creek Apt 621</u>
City and County	<u>Cliffside Park, NJ 07010</u>
State and Zip Code	<u></u>
Telephone Number	<u>(783) 54-1178</u>
E-mail Address	<u>dawyrche@gmail.com</u>

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

Name	<u>KM Systems Inc.</u>
Job or Title (if known)	<u></u>
Street Address	<u>2168 Balboa Ave Ste 4</u>
City and County	<u>San Diego, CA 92109</u>
State and Zip Code	<u></u>
Telephone Number	<u>888 581-3619</u>
E-mail Address (if known)	<u></u>

Defendant No. 2

Name	<u>Queen Castle (Queen Castle Communications)</u>
Job or Title (if known)	<u></u>
Street Address	<u>16-16 Whiteside Expwy 4th Floor</u>
City and County	<u>Flushing, NY 11357</u>

State and Zip Code

Telephone Number

E-mail Address

(if known)

877-456 9317

C. Place of Employment

The address at which I sought employment or was employed by the defendant(s) is:

Name

Street Address

City and County

State and Zip Code

Telephone Number

(Dragon Castle Communications
16-16 Whitestone Expy 4th Floor

Whitestone, NY 11357

877-456-9317

II. Basis for Jurisdiction

This action is brought for discrimination in employment pursuant to (check all that apply):



Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

(Note: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)



Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 to 634.

(Note: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.)



Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 to 12117.

(Note: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

C. I believe that defendant(s) (check one):

- ☐ is/are still committing these acts against me.
☒ is/are not still committing these acts against me.

D. Defendant(s) discriminated against me based on my (check all that apply and explain):

- ☒ race African American
☒ color _____
☐ gender/sex _____
☐ religion _____
☐ national origin _____
☐ age. My year of birth is _____. (Give your year of birth only if you are asserting a claim of age discrimination.)
☐ disability or perceived disability (specify disability) _____

E. The facts of my case are as follows. Attach additional pages if needed.

I was hired as a field test engineer despite having no education, training, or skills to perform job responsibilities. I was told that I would be trained, but I never received any job training. I was hired through a staffing agency (KMS Systems Inc) to work for their client company (Crane Castle Communications). Neither company provided me with training; I made multiple verbal complaints including working unsafe work conditions including lack of training complaints as I was not receiving training, but I was instructed by staff to carry out technical job duties. On November 5, 2018 I made an unsafe work email complaint and was discharged within 2 weeks. Comments were made about my African American hairstyle by Crane Castle staff, I worked in an isolated capacity

(Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, or the charge filed with the relevant state or city human rights division.)

Facts of case (continued)

where other staff members that worked for JMS wireless or Crown Castle worked in an inclusive environment under management supervision with an abundant amount of support. I did not receive any support from staff. Primarily, I worked alone.

I worked in the field overnight by myself with a multifunctioned work vehicle where the passenger mirror was omitted. The vehicle had multiple ~~transmission~~ and transmission issues and parts of the vehicle stopped operating such as gear shift knob (it actually dropped off). ~~One I made a complaint about~~ My complaints were not investigated or addressed; resultantly I was terminated.

Harofi Brad (Crown Castle Manager Of Engineer)

Harofi ~~com~~ complained about my performance despite ~~not being a manager~~ me not receiving any training from crown castle / JMS wireless. Harofi Blamed me for ~~the~~ the Project's progress and called me "unproductive" in the workplace without addressing my training concerns.

African Americans

~~Two~~ Two African Americans that were tasked with the responsibility of training me were abruptly discharged within the first month I was hired in. I ~~had support then~~ did not have the opportunity to receive training from ~~the~~ my former coworkers due to scheduling conflicts. No other African Americans were present at this time in the workplace and my position was ~~not~~ replaced by a middle eastern individual that was related to an engineer at crown castle.

☐ Other federal law (specify the federal law):

☒ Relevant state law (specify, if known):

Discrimination, wrongful termination, ~~and~~ Retaliation

☐ Relevant city or county law (specify, if known):

~~NYC~~ discrimination

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. The discriminatory conduct of which I complain in this action includes (check all that apply):

- ☐ Failure to hire me.
- ☒ Termination of my employment.
- ☐ Failure to promote me.
- ☐ Failure to accommodate my disability.
- ☒ Unequal terms and conditions of my employment.
- ☒ Retaliation.
- ☐ Other acts (specify): _____

(Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.)

B. It is my best recollection that the alleged discriminatory acts occurred on date(s)

8/23/2019 - 11/16/2019 (entire duration)

IV. Exhaustion of Federal Administrative Remedies

- A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on (date)

September 23, 2019

- B. The Equal Employment Opportunity Commission (check one):



has not issued a Notice of Right to Sue letter.

issued a Notice of Right to Sue letter, which I received on (date).

Issued request right to sue 9/23/2019

(Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.)

- C. Only litigants alleging age discrimination must answer this question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding the defendant's alleged discriminatory conduct (check one):

- ☐ 60 days or more have elapsed.
☐ less than 60 days have elapsed.

V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

I would like to receive back wages ^{from} 11/16/2018 (considering that I was discriminated against and as a result I'm unemployed because I was discharged after making verbal complaints involving being segregated from other coworkers to unsafe work conditions including ^{lack of} training). Also I'm requesting additional relief (and/or punitive, compensatory) considering both companies (defendants) violated my civil rights and retaliated against me causing me grave economic loss and financial hardship due to prejudice/discriminatory work practices I experience.

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: ^{December} 23, 2019.

Signature of Plaintiff

Printed Name of Plaintiff

D. W. Allen
David W. Allen



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
New York District Office

33 Whitehall Street, 5th Floor
New York, NY 10004-2112
For General Information: (800) 669-4000
TTY: (800)-669-6820
District Office: (212) 336-3630
General FAX: (212) 336-3625

Mr. David Wyche
1 Towne Center Apt 621
Cliffside Park, NJ 07010

Re: David Wyche v. K & M Systems, Inc.
EEOC Charge No.: 520- 2019 - 05742

Dear Mr. Wyche:

We have received your request for a Notice of Right(s) to Sue. Less than 180 days have passed since the filing of the above-cited charge files, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of these charges. Enclosed is the Notice of Right(s) to Sue for the file.

On behalf of the Commission,

A handwritten signature in cursive script, appearing to read "Kevin J. Berry", is written over a horizontal line.

Kevin J. Berry,
District Director

September 23, 2019

Dated

Attn.: Director of Human Resources
K&M SYSTEMS INC.
2168 Balboa Avenue Suite 4
San Diego, CA 92109

EEOC Form 161-B (11/16)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Mr. David Wyche
 1 Towne Center Apt 621
 Cliffside Park, NJ 07010

From: New York District Office
 33 Whitehall Street
 5th Floor
 New York, NY 10004

☐ On behalf of person(s) aggrieved whose identity is
 CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.	EEOC Representative	Telephone No.
520-2019-05742	D. Young, Investigator	(212) 336-3758

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA must be filed in a federal or state court **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

- ☐ More than 180 days have passed since the filing of this charge.
- ☒ Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.
- ☒ The EEOC is terminating its processing of this charge.
- ☐ The EEOC will continue to process this charge.

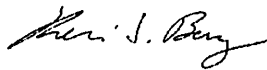
Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

- ☐ The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court **WITHIN 90 DAYS** of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.
- ☐ The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred **more than 2 years (3 years)** before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission



Dcy

Kevin J. Berry,
District Director

September 23, 2019

(Date Mailed)

Enclosures(s)

CC: Attn.: Director of Human Resources
 K&M SYSTEMS INC.
 2168 Balboa Avenue Suite 4
 San Diego, CA 92109



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
New York District Office

33 Whitehall Street, 5th Floor
New York, NY 10004-2112
For General Information: (800) 669-4000
TTY: (800)-669-6820
District Office: (212) 336-3630
General FAX: (212) 336-3625

Mr. David Wyche
1 Towne Center Apt 621
Cliffside Park, NJ 07010

Re: David Wyche v. Crown Castle
EEOC Charge No.: 524- 2019 - 02054

Dear Mr. Wyche:

We have received your request for a Notice of Right(s) to Sue. Less than 180 days have passed since the filing of the above-cited charge files, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of these charges. Enclosed is the Notice of Right(s) to Sue for the file.

On behalf of the Commission,

A handwritten signature in cursive script, appearing to read "Kevin J. Berry".

Kevin J. Berry,
District Director

September 23, 2019

Dated

Attn.: Director of Human Resources
CROWN CASTLE
16-16 Whitestone Expressway, Fl. 4
Whitestone, NY 11357

EEOC Form 161-B (11/12)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Mr. David Wyche
1 Towne Center Apt 621
Cliffside Park, NJ 07010

From: New York District Office
33 Whitehall Street
5th Floor
New York, NY 10004

☐

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

524-2019-02054

D. Young,
Investigator

(212) 336-3758

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

☐

More than 180 days have passed since the filing of this charge.

☒

Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.

☒

The EEOC is terminating its processing of this charge.

☐

The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

☐

The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.

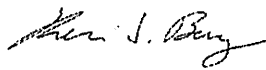
☐

The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission



September 23, 2019

Enclosures(s)

Kevin J. Berry,
District Director

(Date Mailed)

cc: Attn.: Director of Human Resources
CROWN CASTLE
16-16 Whitestone Expressway, Fl. 4
Whitestone, NY 11357

Enclosure with EEOC
Form 161-B (11/16)

**INFORMATION RELATED TO FILING SUIT
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),
the Genetic Information Nondiscrimination Act (GINA), or the Age
Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge within 90 days of the date you receive this Notice. Therefore, you should keep a record of this date. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed within 90 days of the date this Notice was mailed to you (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Courts often require that a copy of your charge must be attached to the complaint you file in court. If so, you should remove your birth date from the charge. Some courts will not accept your complaint where the charge includes a date of birth. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred more than 2 years (3 years) before you file suit may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit before 7/1/10 – not 12/1/10 – in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, please make your review request within 6 months of this Notice. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.